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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,961	08/03/2001	Edwin Lyda	42159-023	5875
7590 02/08/2006 McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER TRAN, HAI V	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,961

Applicant(s)

LYDA, EDWIN

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 8-12, 16 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-15, 17-21 & 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/10/2005 have been fully considered but they are not persuasive.

Applicant argues, "Ferris reference requires that a host transmit programme Associated Data (PAD)...to the display device where it is displayed to the user. The PAD appears on the display, and the user responds to the display on the unit; the user is limited to choice displayed on the device, and cannot input his own response data. The present invention, on the other hand, provides means for a user to respond to any type of programming, whether live or recorded, by simply using a response device with a key pad..."

In response, the Examiner respectfully disagrees with Applicant because a) the scope of the claim does not require the user to input his own response data beside the presented choice; b) in Ferris, the user by answering/inputting his/her own choice of selection, Ferris's user is indeed, as broadly read, input his/her own respond data; c) Ferris also provides means for user to respond to any type of programming, i.e., Fig. 2A for electronic purchasing; Fig. 2D for user to choose certain acts of preference; Fig. 2G for a betting game...

Applicant further argues, "the Ferris device does not control user's input of a program identifier code for a program. The term PADID refers simply to a unique identifier for the PAD display data which is transmitted from the host to the user's device and to which the user responds. The only "program" to which the user can respond is

the PAD display. the present invention, on the other hand, requires the user to input a program code for the particular programming event, thereby allowing a respondent to identify the exact event to which he is responding.”

In response, the Examiner respectfully disagrees with Applicant because Ferris further offers to user an alternative way to interact with program-associated material as in Fig. 2A wherein the user must input “product/vendor code” in order to purchase a product, see Fig. 2L, page 27, lines 13-19 . In view of that, Ferris device does control user’s input of a program identifier code for a program; therefore, Ferris clearly responds to a program received apart from the response device, not ONLY to a PAD displayed, as alleged by Applicant.

Claims 2 and 3, (as well as claims 17and 23 by reference), Applicant argues, “Ferris makes no reference at all to voice recognition apparatus.”

In response, the Examiner notes that Claims 2, 3, 17,and 23 all relate to Markush-type claims, see MPEP § 2173.05(h). Therefore, the examiner only needs to consider one of the alternative limitations. In this instant, Ferris meets the claimed limitation “a keypad” of claims 2 and 3 (as well as claims 17and 23 by reference).

Applicant's failure to adequately traverse facts Officially noticed in the rejections of claims 4-6 of the previous Office Action is taken as an admission of the fact(s) noticed.

To adequately traverse the Examiner ‘s assertion of Official Notice, an applicant must specifically point out the supposed errors in the Examiner’s action, which would

include stating why the noticed fact is not considered to be common knowledge or well known in the art. See 37 CFR 1.111(b). This standard to be applied by the Examiner evaluating the applicant's response should be liberally interpreted, almost any reference to the taking of Official Notice should be taken as sufficient to constitute a proper traverse. Unless the traverse is clearly inadequate, the Examiner should provide a reference for the fact(s) officially noticed in the last Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 13-15, 17, and 19-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferris et al. (WO 99/04568).

Claim 1, Ferris discloses an electronic response device (Fig. 3, el. 417; Fig. 4-6) other than a personal computer, the response device configured to allow user to send data over a standard communication system (see Fig. 3), in response to a program received apart from the responsive device (the remote control device is used to respond to programming/"television programming show", i.e. tool show with option to buy a product, received apart from the response device, for example Ferris' s Fig. 4; page 23) , the response device comprising:

a user input mechanism for entry of user input and responses (Fig. 5, el. 622 and Fig. 2L, page 27, lines 13-19);

means for requiring (input controller 611) the user's input of a program identifier code for the program received apart from the responsive device (the user able to interact with program-associated material as shown in Fig. 2A wherein the user must input "product/vendor code" in order to purchase a product, see Fig. 2L, page 27, lines 13-19; therefore, Ferris clearly respond to a program received apart from the response device);

means for providing a user identifier code, the means selected from the group consisting of having the identifier code associated with the response device and having the user input the user identifier code (reads on Ferris' s HUUID represents User Identification associated with the remote control device; see page 25; 4th paragraph; Fig. 2K).

a central processing unit (microprocessor 607) for correlating the responses the user has entered into the user input mechanism to the program identifier code and for processing the program identifier code, the user identifier code, and responses the user has entered into the user input mechanism (reads on: by responding to the "product/vendor code" input through the handheld device on the basis of the information inputted by the user, the inputted "product/vendor code" is transmitted back to the central control station along with HUUID (page 13, 3rd paragraph). In doing so, the inputted "product/vendor code" constitutes an input from the user of a program identifier code (PADUID) for the particular programming

event (displays PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3rd paragraph.)

a power source (inherently must have); and
a transmitter connected to the CPU (603 and 614).

Claim 2, Ferris further discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph);

the transmitter comprises a two-way paging device (Fig. 5, el. 603; page 18; 2nd paragraph); and the communication system comprises a two-way paging system (page 12; 3rd paragraph).

Claim 3, Ferris further discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph);

Claim 13, method claim is analyzed with respect to apparatus claim 1, Ferris further discloses a method for receiving and processing responses to a program selected from the group consisting of radio broadcast, a television broadcast... (page 10, 8th paragraph) and collecting the response data at a central location; correlating the program identifier code to the responses; processing the response date (page 15, 1st paragraph; page 24, 1st-3rd paragraph).

Claim 14, Ferris further discloses sending the processed data to a presenter of the program for viewing (page 15, 1st paragraph and page 24, 3rd paragraph).

Claim 15, Ferris further discloses having the presenter of the program respond to the audience center (interactive story line; page 9, 4th paragraph).

Claim 17 is analyzed with respect to claim 2.

Claim 19, Ferris further discloses, "having the audience member log in to a remote computer system before inputting data into the user input device" (page 8, 3rd/last paragraph; and page 26, 2nd paragraph).

Claim 20, Ferris discloses a system for receiving and processing responses to a program selected from the group consisting of radio broadcast, a television broadcast...(page 10, 8th paragraph) comprising;

Providing a program identifier (PADUID) for a program being presented (page 13, 3rd paragraph);

Providing a user input device other than a personal computer (Fig. 3, el. 417; Fig. 4-6);

Having an audience member input the a program identifier code (PADUID) into the user input device (Ferris' s PAD constitutes an offering/object displayable to

user and requires user to express interaction with the PAD through the handheld device on the basis of the information so displayed. By interacting with the presented PAD, the selected PAD is transmitted back to the central control station along with HUUID and PADUID (page 13, 3rd paragraph). In doing so, the selected PAD includes HUUID and PADUID constitutes an input from the user of a program identifier code (PADUID) for the particular programming event (displays PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3rd paragraph);

Having an audience member input response into the user input device (Fig. 5, el. 622; page 15, 1st and 5th paragraph);

Transmitting the program identifier and the response data associated with a user identifier over a standard communication system (page 12; 3rd paragraph).;

Collecting, correlating and processing the program identifier and the responses (page 15, 1st paragraph; page 24, 1st-3rd paragraph);

Routing the responses to a program presenter (interactive story line; page 9, 4th paragraph).

Claim 21, Ferris further discloses having the presenter respond to the audience member (interactive story line; page 9, 4th paragraph).

Claim 23 is analyzed with respect to claim 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4, 5, 6, 18 and 24 are rejected under 35 U.S.C. 103(a) as being obvious over Ferris et al. (WO 99/04568).

Claim 4, Ferris discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph); Ferris further discloses the outbound PAD could be transmitted using 'data-hiding' technology associated with a response to the program over any types of communication network (pages 12-14).

Ferris does not disclose the transmitter is configured to call telephone numbers each of the telephones numbers having been associated with a particular response to the program; and the communication system comprises a plain old telephone system.

Official Notice is taken that having a remote control with integrated modem with associated call number for communication purpose using of a plain old telephone system is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated modem built in the handheld device so to provide

to user an alternative way to communicate with the service provider beside of the two-way paging network.

Claims 5 and 6 Ferris further disclose wherein the input mechanism is selected from the group consisting of keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5th paragraph) and the request might be sent over the Internet (see page 14; 4th/last paragraph).

Ferris does not disclose the transmitter comprises a wireless Internet protocol device, and the communication system comprises Internet protocol systems; wherein the Internet protocol system further communicates with a telecommunication system.

Official Notice is taken that having a remote control with integrated wireless modem for communication purpose through Internet in which the Internet network is in communication with a telecommunication network is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated wireless modem built in the handheld device so to provide to user an alternative way to communicate with the service provider through Internet network beside of the two-way paging network.

Claim 18 is analyzed with respect to claim 4.

Claim 24 is analyzed with respect to claim 4.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris et al. (WO 99/04568) in view of Yoshinobu et al. (US 5721584).

Claim 7, Ferris shows activities (alert with flashing led 10) during connectivity (page 22, 6th paragraph) during communication.

Ferris does not clearly disclose an indicator for indicating the connection status of the electronic response device to a communication system;

Yoshinobu discloses an indicator for indicating the connection status of the electronic response device to a communication system (Col. 12, lines 22-30 and col. 18, lines 1-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris with Yoshinobu so to provide to user a way to detect the condition (Connect or Not connect) of the communication process between two communication devices.

4. Claims 25 is rejected under 35 U.S.C. 103(a) as unpatentable over Ferris et al. in view of Lewis et al (US 5303042).

Claim 25, Ferris does not clearly disclose the audience member log into a remote computer system before inputting data into the user input device; However, the users log on the keypad device (page 25, 3rd and 4th paragraph).

Lewis discloses the audience member log into a remote computer system before inputting data into the user input device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify Ferris with Lewis so that the remote computer able to track all viewer currently log on the system (Col. 8, lines 25-45).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht
02/02/2006



HAI TRAN
PRIMARY EXAMINER